

Chapter 13.30A

CLEAN WATER FUNDING

Sections:

13.30A.010	Findings.
13.30A.020	Designation of stormwater control facility.
13.30A.030	Definitions.
13.30A.040	Clean water commission.
13.30A.050	Rate structure.
13.30A.060	Reduced service charge for low-income senior citizens.
13.30A.065	Reduced service charge for hardship status.
13.30A.070	Capital facilities fund.
13.30A.080	Billing and collection.
13.30A.090	Collection of delinquencies, interest, penalty and costs of collection.
13.30A.100	Revolving fund.
13.30A.110	Appeal of charges.

13.30A.010 Findings.

The board of county commissioners finds and declares that existing stormwater runoff conditions within the unincorporated areas of Clark County constitute a potential hazard to the health, safety and welfare of the lives and property of inhabitants. The board of county commissioners also finds that the streams, rivers, lakes, waterways and functionally related natural and man-made stormwater control facilities constitute a stormwater control facility. In order to effectively regulate and control storm and surface waters within unincorporated Clark County, an ordinance must be implemented under RCW 36.89, and Article 11, Section 11 of the Washington State Constitution, to provide the financing and governance necessary for control and regulation of required stormwater activities. The State of Washington Department of Ecology issued Clark County a National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge permit. Under the terms and conditions of the permit, Clark County is required to fund and undertake a large number of activities. These activities are described in the Stormwater Management Program ("SWMP") dated September 30, 1998, which was approved as revised by the Department of Ecology. The county has funded and undertaken stormwater related activities described in the SWMP as "current activities" without a storm and surface water service charge in the unincorporated areas of the county. Implementing the regulations and additional proposed activities identified in the SWMP shall provide regulation of and protection from stormwater runoff in the unincorporated areas of the county. To fund this work, it is necessary to adopt service charges in the unincorporated area of the county with rates varying according to the services furnished, the benefits received; and the character, use and stormwater runoff characteristics of the land. (Sec. 3 of Ord. 1999-11-09)

13.30A.020 Designation of stormwater control facility.

There is hereby designated the original stormwater control facility of the county; which shall include all properties, interest, physical and intangible rights of every kind or nature owned or held by the county within the unincorporated areas of the county, however acquired, insofar as they relate to or concern storm or surface water. It shall further include without limitation, all such properties, interests and rights acquired by adverse possession or by prescription, directly or through another; in and to the drainage or storage, or both; of storm or surface waters, or both; through, under, or over lands, landforms, watercourses, sloughs, streams, ponds, lakes and swamps. In each case or instance, their inclusion begins at a point where storm or surface waters first enter the stormwater control facility of the county within the county. The designation ends, in each case or instance, at a point where such storm or surface waters exit from the stormwater control

facility of the county, and in width to the full extent of inundation caused by the largest storm or flood condition. (Sec. 3 of Ord. 1999-11-09)

13.30A.030 Definitions.

As used in this chapter:

- A. "Base unit" means a single-family residential unit of three thousand five hundred (3,500) square feet of impervious surface.
- B. "Best management practices" means the most practical, effective tools to protect water resources. They include specific management activities and maintenance procedures for controlling, treating, or preventing pollution from stormwater runoff.
- C. "Impervious surfaces" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.
- D. "Stormwater runoff" means the rainfall and/or snowmelt that runs off impervious surfaces and yards into surface water and groundwater.
- E. "Runoff" means stormwater runoff, irrigation waters, water used to clean, and other nonstorm created water that runs off impervious surfaces, yards and other surfaces into surface water and groundwater. It carries pollutants such as oil, dirt, chemicals, debris, and pet waste.
- F. "Single-family Residential Lot" means a single dwelling used for single-family living on a single-parcel.
- G. "Multi-family Residential Lot" means a parcel of land having two or more family dwellings on a single parcel. (Sec. 3 of Ord. 1999-11-09; amended by Sec. 1 of Ord. 2001-08-20)

13.30A.040 Clean water commission.

There is hereby created a clean water commission composed of nine citizens appointed by the board of county commissioners. The clean water commission shall represent a balanced interest in storm and surface water treatment and regulation. The commission shall make recommendations to the board of county commissioners on such matters as the focus of the SWMP, program service levels, financing, and policies on surface and stormwater issues. The commission shall report to the board its recommendation for creating an incentive program through which service charges may be adjusted in circumstances where property owners significantly reduce the impacts of stormwater runoff. In addition, the commission shall report annually to the board of county commissioners on the effectiveness of the stormwater management program. In order to make an annual report to the board of county commissioners, the commission shall establish the criteria for evaluating the effectiveness of the program and set forth the criteria in the annual report. The annual report shall include a plan for the upcoming year in addition to evaluating the effectiveness of the program in the preceding year. Also, the report shall include a summary of revenues and expenditures by watershed, zip code or other easily identifiable geographic means. The terms of the appointees shall be staggered and be for three (3) years. Members may be reappointed to serve additional terms. (Sec. 3 of Ord. 1999-11-09)

13.30A.050 Rate structure.

- A. The service charges shall be based upon the relative contribution to increased surface and stormwater runoff from developed parcels and based upon the land use of the parcel. The service charge shall be imposed on all developed parcels within the unincorporated areas of the County with improvements having a value of ten thousand dollars (\$10,000) or more. Land uses are categorized as single-family residential lots, single-family residential large lots, multifamily residential lots, commercial, industrial, and

other nonresidential lots, and undeveloped lots. A base unit is used to calculate the service charge for each commercial, industrial or other nonresidential lot. The service charge for single-family residential lots of 0.5 acres or less be calculated as a single base unit. Larger single-family residential lots shall be charged an amount less than the full annual service charge as set forth in this section. The annual service charge rate for multifamily residential lots shall be thirty-three dollars (\$33.00) multiplied times the number of residential units located on the lot. The base unit is three thousand five hundred (3,500) square feet of impervious surface area that is the average impervious surface area for single-family residential lots within the urban growth area of the County. The annual service charge imposed for each base unit of impervious surface area is thirty-three dollars (\$33.00).

B. Land Use Category

No. 1 Single-family residential detached

No. 2 Single-family residential large lots:

More than 0.5 acre to 1 acre

More than 1 acre to 5 acres

More than 5 acres to 20 acres

More than 20 acres

No. 3 Multi-Family Residential Lots

No. 4 Retail, commercial, offices, churches, hospitals, airports, public or private utility installations, public or private schools, golf courses, government structures, other public facilities, subject to RCW 90.03.525, industrial, manufacturing and railroad right-of-way, county road and street right-of-way

No. 5 State highway

Annual Service Charge Rate

\$33.00/single-family residence

\$29.70

\$26.40

\$23.10

\$19.80

\$33.00 X number of residential units

\$33.00 X number of base units or
portion thereof

\$9.90 X number of base units or portion
thereof subject to RCW 90.03.525

C. For the purpose of defining total land area of properties in land use category numbers 4 and 5 above, the storm and surface water program shall use the county assessor's current records and such other records as necessary to measure the property to within one hundred (100) square feet.

D. It is the further finding of the board of county commissioners that many of the difficulties in managing of surface and stormwater problems result in part from the general lack

of public knowledge about the relationship between human actions and surface and stormwater management. In order to achieve a comprehensive approach to surface and stormwater management, the county should provide general information to the public about land use and human activities that affect surface and stormwater management. Pursuant to RCW 36.89.085, it is the further finding of the board of county commissioners that public and private schools can provide significant benefits to the county regarding surface and stormwater management through educational programs, on-site facilities, and community activities related to protection and enhancement of the surface and stormwater management system. These programs, facilities, and activities can provide students with an understanding of human activities and land use practices that create surface and stormwater problems by providing students first-hand exposure to the difficulties of such problems after they occur. Public and private schools providing such programs, and complying with best management practices for their facilities and activities as set forth in the county's best management practices manual, may apply to the county director of public works for a reduction of the applicable service charge. The reduction shall be based on the nature and extent of the programs, facilities and activities provided, the extent to which the programs, services, and facilities mitigate the impacts of surface and stormwater runoff and any other matters that are relevant to managing surface and stormwater. (Sec. 3 of Ord. 1999-11-09; amended by Sec. 1 of Ord. 2000-04-08; amended by Sec. 2 of Ord. 2001-08-20)

13.30A.060 Reduced service charge for low-income senior citizens.

The service charge for owner occupied, single-family residential property qualifying for a low-income senior citizen property tax exemption pursuant to RCW 84.36.381 shall be fifty percent (50%) of the amount specified in Section 13.30A.050(B)(1) or (2).

13.30A.065 Reduced service charge for hardship status.

Single-family residential dwellings qualifying for hardship status, pursuant to Section 18.413.010 (as existing or hereafter amended), shall not be subject to a service charge; PROVIDED, the principal dwelling and any other dwellings on the property shall remain subject to service charges imposed by this chapter. (Sec. 3 of Ord. 2001-08-20)

13.30A.070 Capital facilities fund.

The service charges collected pursuant to this chapter shall be used to fund the additional activities undertaken by Clark County as required by its NPDES permit. Any revenues collected in excess of the cost of such activities and fines collected for the violation of stormwater regulations shall be set aside into a capital facilities fund maintained by the county treasurer. The moneys set aside into the capital facilities fund and earnings thereon shall be used only for the acquisition and construction of stormwater facilities. (Sec. 3 of Ord. 1999-11-09)

13.30A.080 Billing and collection.

The charges as herein provided for shall be billed annually, shall be due on or before the 31st day of July and shall become delinquent thereafter if not paid. The owner of contiguous parcels having a single land use within the categories designated in Section 13.30A.050 may receive a single billing for such parcels. The owner listed in the county assessor's tax rolls may designate that the service charge for a parcel be billed to a second party provided that the owner provides a written legal agreement evidencing the second party's agreement to pay the service charge. The billing of the second party shall not prohibit the county from imposing and enforcing a lien upon the subject parcel as provided in this chapter. (Sec. 3 of Ord. 1999-11-09)

13.30A.090 Collection of delinquencies, interest, penalty and costs of collection.

Delinquent utility service charges provided for herein shall be charged interest on the delinquent balance at the rate of eight percent (8%) per annum, computed on a monthly basis. A

penalty of ten percent (10%) of the service charge for the parcel shall be added to service charges that are more than six (6) months delinquent. The county shall have a lien for delinquent service charges, including interest and penalties thereon, against the real property for which the service charges are calculated. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. The county director of public works may excuse delinquencies of less than thirty (30) days.

The Clark County treasurer's office, on behalf of the department of public works, shall certify periodically the delinquencies to the county auditor at which time the lien shall attach. Upon the expiration of sixty (60) days after the attachment of the lien, the county may bring suit in foreclosure by civil action in the superior court of the county where the property is located. The county treasurer may use the services of a collection agency to collect delinquent service charges as provided in RCW 19.16.500 as existing or hereinafter amended. The collection agency fee shall be added to the amount of the delinquent service charge. Costs associated with the foreclosure of the lien, including but not limited to advertising, title report and personnel costs, shall be added to the lien upon filing of the foreclosure action. In addition to the costs and disbursements provided by statute, the court may allow the county reasonable attorney's fees. The lien shall be foreclosed in the same manner as the foreclosure of real property tax liens. (Sec. 3 of Ord. 1999-11-09)

13.30A.100 Revolving fund.

Subject to Section 13.30A.070, service charges, interest and penalties for delinquent payments and earnings thereon shall be deposited in a special fund or funds in the county treasurer's office. Such funds are to be used only for the purpose of paying all or any part of the cost and expense of regulating, monitoring and evaluating stormwater impacts; maintaining and operating stormwater control facilities; educating the public on issues related to stormwater; and all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any such facilities; or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose.

The balance of the funds remaining in the Burnt Bridge Creek Utility fund as of December 31, 1999 shall only be used for stormwater capital facilities projects within the Burnt Bridge Creek Drainage as defined by former Chapter 13.28. (Sec. 3 of Ord. 1999-11-09)

13.30A.110 Appeal of charges.

If an owner or responsible party believes the storm and surface water service charge is incorrect, the owner may appeal to the county public works director, providing such information as the county public works director may require. The appeal shall be filed with the director within forty-five (45) days of the mailing of the billing of the service charge. The county public works director may make an adjustment to the charges consistent with professional engineering judgment and with the general policies of this chapter.

Decisions of the county public works director regarding rate adjustments and appeals shall be final after thirty (30) days of the date the decision was mailed, unless the applicant submits in writing to the county public works director a notice of appeal setting forth the information required for an appeal as stated in Section 18.600.100 as existing or amended and requesting a hearing before the county hearings examiner. The hearings examiner's proceeding shall be conducted as an appeal of a Type II decision as provided in Chapter 18.600 of this code; provided that decisions of the hearing examiner shall be final subject to a timely appeal to Superior Court. (Sec. 3 of Ord. 1999-11-09; amended by Sec. 4 of Ord. 2001-08-20)